

LYNCHBURG CITY COUNCIL  
Agenda Item Summary

MEETING DATE: **February 14, 2006**

AGENDA ITEM NO.: 5

CONSENT:

REGULAR: **X**

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **CONDITIONAL USE PERMIT (CUP): To allow the construction of a building that would cross the City / County boundary line in the 1700 Block of Graves Mill Road.**

RECOMMENDATION: Approval of the requested conditional use permit petition.

SUMMARY: Dry River Investments, LLC is petitioning for a conditional use permit for a 0.69 (sixty-nine hundredths) of an acre tract adjacent to Graves Mill Road, also known as Valuation Number 240-13-013, to allow the construction of a building that would cross the City / County boundary line. The Planning Commission recommended approval of the conditional use permit because:

- The petition agrees with the *Comprehensive Plan* which recommends promoting regional cooperation in issues related to land use, growth and development.
- Petition agrees with the Zoning Ordinance in that a structure which would be split by the city/county boundary line is permitted by conditional use permit.
- Petition proposes the construction of a one (1)-story, thirty thousand, four hundred (30,400) square foot building to be used for building supply retail and wholesale product warehousing in Bedford County. Of the total building footprint, three percent (3%) or nine hundred and ninety eight (998) square feet is proposed to be constructed within the City; that portion will be used for storage and handling of wholesale product.

PRIOR ACTION(S):

January 11, 2006: Planning Division recommended approval of the conditional use permit.  
Planning Commission recommended approval (6-0, with 1 member absent, Bacon) with the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Perkins & Orrison dated November 5, 2005 and stamped received December 30, 2005.
2. All stormwater management systems shall be designed and built to address the quality of water being discharged from the site to the standards now in effect in the City of Lynchburg.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn/ 455-3902  
Tom Martin/ 455-3909

ATTACHMENT(S):

- Ordinance
- PC Report
- PC Minutes
- Vicinity Zoning Pattern
- Vicinity Proposed Land Use
- Site Plan
- Narrative
- Speaker Sign-Up sheet

REVIEWED BY: lkp

## RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO DRY RIVER INVESTMENTS, LLC TO ALLOW CONSTRUCTION OF A BUILDING THAT WILL CROSS THE CITY/COUNTY BOUNDARY LINE, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG that the petition of the Dry River Investments, LLC, for a Conditional Use Permit to build a building in the 1700 block of Graves Mill Road, Valuation Tax Map No. 240-13-013 that will cross the City of Lynchburg and Bedford County boundary line be, and the same is hereby, approved, subject to the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Perkins & Orrison dated November 5, 2005 and stamped received December 30, 2005.
2. All stormwater management systems shall be designed and built to address the quality of water being discharged from the site to the standards now in effect in the City of Lynchburg.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

015L

**The Department of Community Planning & Development**  
**City Hall, Lynchburg, VA 24504** **434-455-3900**

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** January 11, 2006  
**Re:** **CONDITIONAL USE PERMIT (CUP): To allow the construction of a building that would cross the City / County boundary line in the 1700 Block of Graves Mill Road.**

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**I. PETITIONER**

Dry River Investments, LLC., P.O. Box 4007, Lynchburg, VA 24502-0007

**Representative:** Russ Orrison, Perkins & Orrison, Inc., 17 W. Nelson Street, Lexington, VA 24450

**II. LOCATION**

The subject property is a tract of 0.69 of an acre located adjacent to Graves Mill Road, also known as Valuation Number 240-13-013.

**Property Owners:** Dry River Investments, LLC., P.O. Box 4007, Lynchburg, VA 24502-0007

**III. PURPOSE**

The purpose of this petition is to allow the construction of a building that would cross the City / County boundary line.

**IV. SUMMARY**

- Petition agrees with the Comprehensive Plan which recommends promoting regional cooperating in issues related to land use, growth and development.
- Petition agrees with the Zoning Ordinance in that a structure which would be split by a county boundary line shall be permitted by conditional use permit.
- Petition proposes the construction of a one (1)-story, thirty thousand, four hundred (30,400) square foot building to be used for building supply retail and wholesale product warehousing in Bedford County. Of the total building footprint, three percent (3%) or nine hundred and ninety eight (998) square feet is proposed to be constructed within the City; that portion will be used for storage and handling of wholesale product.

**The Planning Division recommends approval of the CUP petition.**

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends an Office use for the subject property. Office uses are intended for small-scale office buildings that provide adequate space for professional and service uses. However, the plan also recommends promoting regional cooperating in issues related to land use, growth and development. Land use decisions and planning in the surrounding counties have an will continue to have an impact on how the City approaches land use, transportation, utility extension and environmental management (**5.7, Regional Land Use Issues**)
2. **Zoning.** The subject property was annexed into the City in 1976. The existing B-1, Limited Business District zoning was established in 1978 with the adoption of the current *Zoning Ordinance*. The petitioner is requesting a conditional use permit to allow the structure to be split by the City / County boundary line.
3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the proposed building.
4. **Surrounding Area.** The following items have required City Council approval in the immediate area.

- On January 11, 2005, Lynchburg City Council approved Millside Development, LLC's CUP petition to construct a Cluster Commercial Development (CCD) in a B-1, Limited Business District at Mill View Centre, Graves Mill Road and Lillian Lane.
  - On October 13, 1992, City Council rezoned properties along Graves Mill Road and Lakeside Drive from I-3, Heavy Industrial District to B-3, Community Business District as part of the Graves Mill Road/ US 221 Area Land Use Study - Growth Management Program – May 11, 1992 to promote economic vitality, convenience, general welfare and good zoning practice.
5. **Site Description.** The subject property is a tract of 0.69 of an acre that is currently undeveloped. The site is bounded to the north by a combination of commercial uses and undeveloped land, to the east and west by commercial uses and to the south by industrial manufacturing facilities.
  6. **Proposed Use of Property.** The purpose of this petition is to allow a proposed one (1)-story, thirty thousand, four hundred (30,400) square foot building to be split by the city-county boundary line. Of the total building footprint, three percent (3%) or nine hundred and ninety eight (998) square feet is proposed to be constructed within the City. The building to be used for building supply retail and wholesale product warehousing with the portion to be constructed within the City designated specifically for storage and handling of wholesale product.

The City's Commissioner or Revenue has reviewed the project and determined that no business license taxes or personal property taxes will be assessed at this location. The City Assessor has determined that the nine hundred and ninety eight (998) square feet that lies within the City will be assessed in accordance with the City's current building assessment policy.

7. **Traffic and Parking.** The City's Traffic Engineer had no comments regarding the project. Since access to the site will be from Bedford County, the County and Virginia Department of Transportation will be charged with review and maintenance of traffic concerns associated with the proposed project. Similarly, parking requirements for the proposed building will be in accordance with Bedford County standards.
8. **Storm Water Management.** New impervious areas will exceed 1,000 square feet; as such, a stormwater management plan will be required for the construction. Since the proposed detention facility will be located and discharge into Bedford County, the City's Environmental Planner has coordinated with Bedford County's Department of Natural Resources to verify that they will be responsible for the review of all erosion and sediment control and stormwater issues related to the project.

Stormwater quality for the portion of the building that lies within the City will be addressed through landscaping. Since Bedford County does not have a water quality requirement for stormwater, the City's Environmental Planner recommends that water quality requirements for the remainder of the site be required since all stormwater from the building and proposed parking drains into the City.

9. **Emergency Services.** Neither the City's Fire Marshal nor Police Department had any comments on the proposed conditional use permit application. The Bedford County Planning Department has confirmed that, through the City/County emergency services mutual aid agreement, the 911 call should go where the building is addressed; since the address will lie in Bedford County, emergency services will be handled through Bedford County Fire, Rescue and Police, respectively.
10. **Impact.** The proposed development one (1)-story, thirty thousand, four hundred (30,400) square foot building will have minimal impact on the surrounding neighborhood. Since only three percent (3%) of the building is within the City limits, all services (traffic, emergency services, erosion control, stormwater management, building inspection, etc.) will be administered through Bedford County.

The City's Commissioner or Revenue has reviewed the project and determined that no business license taxes or personal property taxes will be assessed at this location. The City Assessor has determined that the 989 (nine hundred and ninety eight) square feet that lies within the City will be assessed in accordance with the City's current building assessment policy.

New impervious areas for the proposed project will exceed 1,000 square feet; therefore, stormwater management for quality management will be required for the portion of the project that lies within the City. However, since all stormwater from the site ultimately flows back into the City, the City's Environmental

Planner recommends that all stormwater management systems shall be designed and built to address the quality standards for stormwater now in effect in the City.

11. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on Tuesday, December 8th, 2005. Comments related to the proposed building were minor in nature and have or will be addressed by the developer prior to final site plan approval.
  12. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary or appropriate in approving a CUP.
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## **VI. PLANNING DIVISION RECOMMENDATION**

**Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the Dry River Investments's to allow the construction of a building that would cross the City / County boundary line in the 1700 Block of Graves Mill Road, subject to the following conditions:**

- 1. The property will be developed in substantial compliance with the site plan prepared by Perkins & Orrison dated November 5, 2005 and stamped received December 30, 2005.**
- 2. All stormwater management systems shall be designed and built to address the quality of water being discharged from the site to the standards now in effect in the City of Lynchburg.**

This matter is respectfully offered for your consideration.

William T. Martin, AICP  
City Planner

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Rachel O. Flynn, Director of Community Planning & Development  
Mr. R. Douglas DeJarnette, Fire Marshal  
Mr. J. Lee Newland, Director of Engineering  
Lt. Danny R. Marks, Lynchburg Police Department Field Operations Bureau  
Capt. Todd Swisher, Lynchburg Police Department North Division  
Capt. H. W. Duff, Jr. Lynchburg Police Department East Division  
Capt. Al Thomas, Lynchburg Police Department South Division  
Mr. Gerry L. Harter, Traffic Engineer  
Mr. Robert Drane, Building Commissioner  
Mr. Keith Wright, Zoning Official  
Mr. Robert S. Fowler, Zoning Official  
Ms. Nicole Gilkeson, Community Development Planner  
Ms. Erin B. Hawkins, Environmental Planner  
Mr. Russ Orrison, Representative

## **VII. ATTACHMENTS**

- 1. Vicinity Zoning Pattern**  
(see attached map)
- 2. Vicinity Proposed Land Use**  
(see attached map)
- 3. Site Plan**  
(see attached site plans)

## MINUTES FROM THE JANUARY 11, 2006 PLANNING COMMISSION MEETING

Petition of Dry River Investments, LLC for a conditional use permit in the 1700 block of Graves Mill Road to allow the construction of a building that would cross the City / County boundary line.

Mr. Martin explained to the Commission that on June 14, 2005, City Council amended the Zoning Ordinance to allow buildings to cross the City/County boundary line upon the approval of a conditional use permit. He added that the City's Comprehensive Plan did recommend promoting regional cooperation and land use growth, and development issues. He continued by saying that the proposed building would cross the boundary line between the City of Lynchburg and Bedford County, with approximately nine hundred and ninety eight (998) square feet, or three percent (3%) of the thirty thousand, four hundred (30,400) square foot building located within the City limits. He said the property would be accessed from Graves Mill Road in Bedford County, with all addressing, utilities, emergency services, and inspections provided by Bedford County. He added that the portion of the building located within the City limits would be taxed by the City's Real Estate Assessor. He said that since stormwater from the development would be discharged into the City, as a Condition of this request, the Planning Division did recommend that all of the stormwater be treated for water quality. He said the Planning Division did recommend approval of the conditional use permit.

Mr. Russ Orrison, Perkins & Orrison, represented Dry River Investments, LLC in this request. Mr. Orrison commented that Mr. Martin had really summed up the request, but he would be able to answer specific questions concerning the design of the site or the need for the CUP. He added that the City staff and Bedford County had assured themselves on how the process will work between the two localities.

Vice-Chair Hamilton asked if the one-thousand (1,000) square foot portion of the building located in the City would be for warehousing, and asked if the tax assessment would be based on the value of the building itself, or the merchandise located in that small portion of the building. She asked if there was specific criteria used to figure out the City's share of the revenue, or would each situation be addressed individually?

Mr. Martin explained that the Commissioner of the Revenue made the determination that the City would not collect business taxes. However, the City Assessor did indicate that they would collect real estate taxes on the assessed value of the portion of the structure located within the City limits.

Mr. Martin said the reason Council decided to require a Conditional Use Permit was so that each request could be reviewed on a case-by-case basis. He said if this was a shopping center, then the revenue would have been looked at differently. However, in this case, he said, since there was such a small portion of the building in the City, and all of the services were being provided by Bedford County, the City did not see any issues with the project.

Commissioner Flint asked why the driveway and turn around were so long.

Mr. Orrison explained that if in the future the business outgrew this facility and needed to add an additional storage facility, then the grading would already be done

Commissioner Barnes commented that he was happy to see that stormwater treatment requirements were being held to the City standards. He asked for more details about how the quality of water would be treated.

Mr. Orrison said technically stormwater from this site discharged into Bedford County, but ran directly into the City. He said they would be extended detention in the basin with some type of infiltration trench in the bottom of the pond.

Vice-Chair Hamilton and Commissioner Flint both voiced positive comments about the project.

After discussion, Commissioner Worthington made the following motion, which was seconded by Commissioner Barnes and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the Dry River Investments' to allow the construction of a building that would cross the City / County boundary line in the 1700 Block of Graves Mill Road, subject to the following conditions:

1. The property will be developed in substantial compliance with the site plan prepared by Perkins & Orrison dated November 5, 2005 and stamped received December 30, 2005.
2. All stormwater management systems shall be designed and built to address the quality of water being discharged from the site to the standards now in effect in the City of Lynchburg."

AYES:	Barnes, Flint, Hamilton, Oglesby, Sale, Worthington	6
NOES:		0
ABSTENTIONS:		0
ABSENT:	Bacon	1

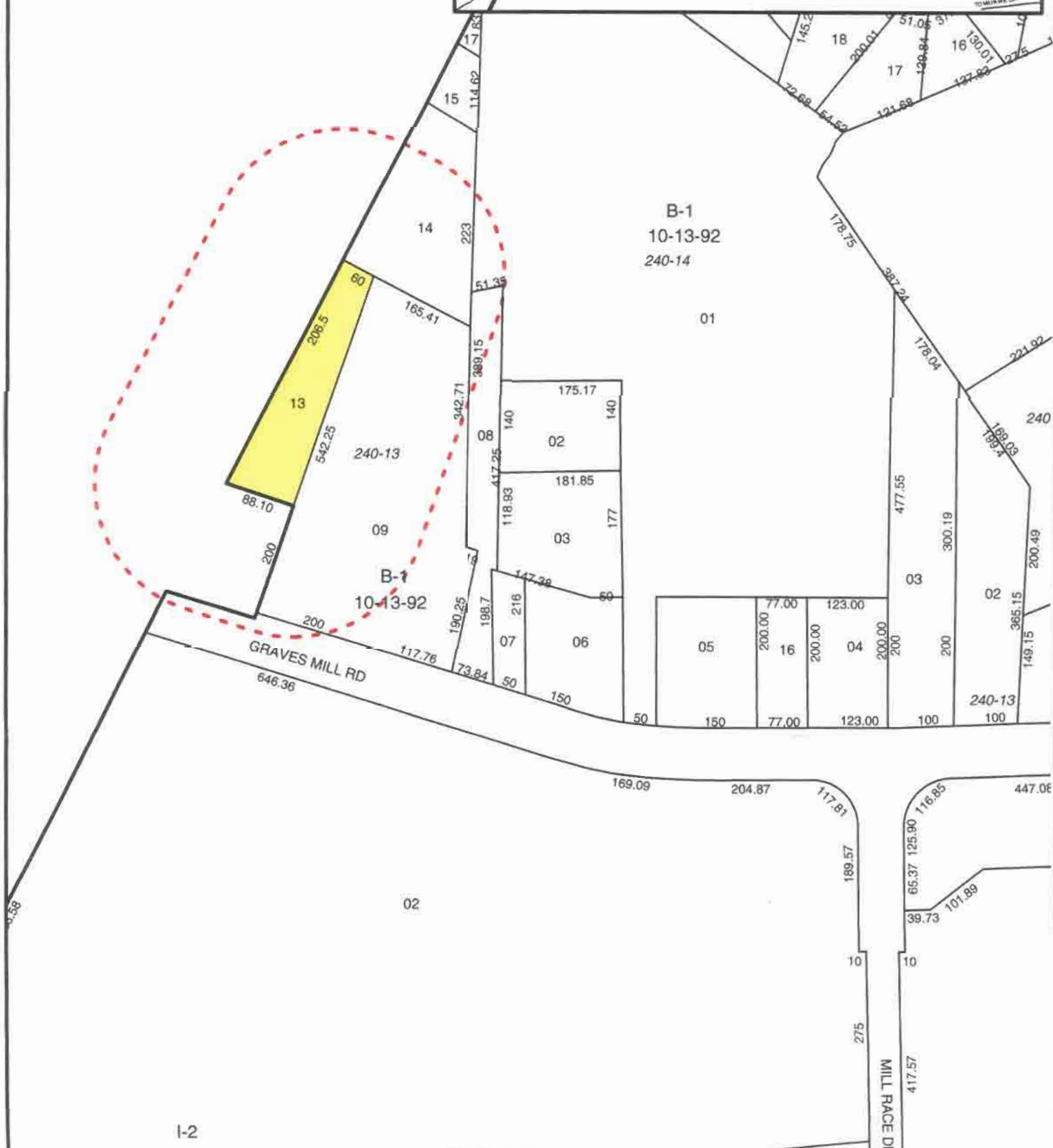
Conditional Use Permit Request  
Map Prepared by the Department of Community Planning & Development



 Subject Property

 200 ft. Buffer

Scale 1 in. = 200 ft.





DOLPHIN FLOOR COVERING  
1700 Block Graves Mill Road

Map #	Owner Name 1
24014001	AGO PROPERTIES
24013009	BANK BUILDING CORPORATION BURNETTE, RONALD F & SHIRLEY D & RONALD F BURNETTE JR
24013008	DRY RIVER INVESTMENTS LLC
24013013	MARKHAM, DILLARD & RUTH B
24013014	JWC INC
101 A 45	MARKHAM DILLARD & RUTH B
101 A 48	VITALE SALVATORE & ANTONINA L
101 A 49	CHIEF INVESTMENTS LLC
101 A 51	JARRETT RONALD J & ANN M
101 A 53	CRAFT BILLY P
101 A 52	DRY RIVER INVESTMENTS LLC
101 A 54	BLANKENSHIP WILLIAM B & HELEN
101 A 57	PACOT GEORGE N III & VICKIE KAY
101 A 55	BALDWIN EDWIN F
101B 2 B	TAYLOR GEORGE B SR & JOYCE P
101B 2 A	HENDRICKSEN A R
101 10 2	HARMAN LEASING INC
101 10 3	

# Legend

## Future Land Use

- Community Commercial
- Downtown
- Employment 1
- Employment 2
- High Density Residential
- Institution
- Low Density Residential
- Medium Density Residential
- Neighborhood Commercial
- Office
- Public Parks
- Public Use
- Regional Commercial
- Resource Conservation
- Traditional Residential

## Dolphin Floor Covering, Inc.

